

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 184 OF 2005

MR. YESHWANT MANDREKAR AND 16 ORS. Petitioners

Versus

M/S. AMERKAR CONSTRUCTIONS AND Respondents
SONS

Mr. S. D. Lotlikar, Senior Advocate with Mr. Shivan Dessai, advocate for the petitioners.
Mr. M. S. Sonak, advocate for the respondents.

Coram:- R. M. LODHA, J.

Date:- 2nd September, 2005

P.C.

Heard Mr. S. D. Lotlikar, the learned Senior Counsel for the petitioners and Mr. M. S. Sonak, the learned counsel for the respondents.

Pursuant to the order of this Court dated 12th August, 2005 the Municipal Engineer of Mormugao Municipal Council has submitted a report dated 16th August, 2005. He has given reasons as to why in his report dated 10th August, 2005 the present location of septic tank and soak pit was found to be most appropriate. The two principal reasons that are given by the Municipal Engineer in his report are : (one) that the septic tank and the soak pit are necessarily constructed at the lowermost point in the demarcated plot for easy flow of sewage and that the present location is the lowermost point in the demarcated plot; (two) that the location of the septic tank must be necessarily accessible by road so that the night soil tanker could easily empty the same as the present location of septic tank is easily accessible to night soil tanker.

Both the courts below have been satisfied with the plaintiff's case that the septic tank and soak pit must be allowed to be constructed at the present location. The consideration of the matter by the courts below cannot be said to suffer from any illegality or material irregularity. As it

is, in view of the report of the Municipal Engineer of Mormugao Municipal Council, Vasco da Gama, the present location of septic tank and soak pit is the most appropriate.

For all these reasons I am satisfied that no case for invoking of extraordinary jurisdiction is made out.

Before I close, I may record the statement made by the learned counsel for the respondents that as and when the Public Works Department lays the sewage line, the plaintiffs-respondents shall connect the septic tank/soak pit with the sewage line that may be laid by the Public Works Department.

With the aforesaid observation the Writ Petition is dismissed.

Needless to say that the findings recorded by the trial Court and the Appeal Court are only tentative and made at the prima facie stage and obviously cannot influence the decision in the suit.

R. M. LODHA, J.